Supreme Court, U.S.
FILED

10-70 APR 30 2010

OFFICE OF THE CLERK

No.

IN THE
SUPREME COURT of the UNITED STATES

Terence Finnan, Petitioner

versus

Kevin K. Ryan, Marsha Kameron Finnan, Ara Asadourian, Essex County, Darla Breckenridge, and Vito Caruso, Respondents

On Petition For Writ of Certiorari

To United States Court of Appeals for the Second Circuit

PETITION FOR WRIT OF CERTIORARI

Terence Finnan, pro se
114 Hurricane Rd
PO Box 354
Keene, NY 12942
518-576-9734

Questions Presented For Review

Did Terence Finnan receive due process under the 14th Amendment when **Judge Ryan moved up a two week later scheduled court action to later in the same day's morning while I was in intensive cardiac care and the notice to me was a call by the judge's staff to the hospital ,when the doctor /hospital does not accept calls to a patient in cardiac intensive care and when after receiving the hospital reports, Judge Ryan did not rehear the matter while I could be present?**

Is the race of Terence Finnan's mother and the claim that the descendants of his father, are a sub-species of violent humans an excuse to deprive Terence Finnan of his rights for redress in the courts for actions by the Respondents?

Is relief available under 42 U.S.C. §1981, 1983, 1985(2) & (3), and 1986 for Terence Finnan or other likewise situated litigants or is an impossible tangle of obstacles in place to allow States and other government entities to ignore the 14th Amendment?

Can Darla Breckenridge claim res judicata as validating her criminal claim for privileges of a licensed NY psychologist?

Must this Court under Canon B (3) (5) of the Code of Conduct maintain and support high standards of conduct and act when the such egregious conduct of Judge Kevin K. Ryan presents?

TABLE OF CONTENTS

Table of Authorities p. ii

(e) BASIS FOR JURISDICTION p. 1

(f) The US Constitutional Amendment provisions and law relied upon p. 1

(g) A Concise Statement of Case p. 1-2

(h) Rule 10 Basis for Writ: p. 2

ARGUMENT p. 4-7
In regard Rooker-Feldman Doctrine p. 5
In regard Anti-injunction Act.....p.5
In regard Res Judicata p.5
In regard §1981, 1982 ,&1986 p.6
In regard §1983 p. 7
In regard Plaintiff's Inadequate complaint p. 7
Conclusion p. 7

APPENDIX p. 8-16

item 1, 12/17/2009 Court of Appeals Order p. 8-11
item 2 Order of District Court p.12-27
item 3 Rehearing of Court of Appeals 2/3/2010 p. 27
item 4, Breckenridge Fraud on Court p. 27-28
item 5, Fraud $1 million, $100,000, $447,000 fee p. 28-29
item 6, Justice Department Complaint p.29-30
item 7, Federal Criminal Complaint p. 30-31

..... TABLE OF AUTHORITIES

pages 1 and 4 US Constitution 14th Amendment

page 3 Code of Conduct for United States Judges 7/1/2009

page 4 *"Show no partiality in your decisions; judge everyone on in your decisions; judge everyone on the same basis, no matter who he is," Deuteronomy 1:17*

page 5 That remedy is available regardless of remedies provided under State law under §1983, is supported in *Zinermon v. Burch U.S., 113, 125 (1990) (quoting Daniels v Williams, 474 U.S. 327 (1986)).* A Plaintiff need not make a showing of irreparable injury to get declaratory relief *Steffel v. Thompson, 415 U.S. 452, 466-67 (1974)*

page 7 *"The Government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation if the laws furnish no remedy for the violation of a vested legal right." Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803)*

(e) BASIS FOR JURISDICTION

(i) The 12/17/2009 Summary Order of United States Court of Appeals for the Second Circuit in action 08-5977-cv (Appendix item 1, p.)

(ii) The 02/3/2010 Order of United States Court of Appeals for the Second Circuit: in 08-5977-cv: Appellant Terrence Finnan having filed a petition for rehearing and the panel that determined the appeal having considered the request, IT IS HEREBY ORDERED that the Petition is denied FOR THE COURT, Catherine O'Hagan Wolfe, Clerk of Court (Appendix item 2, p.)

(iv) This Court's Statutory Jurisdiction is based upon Title 28 U.S.C. §1284

(f) The US Constitutional Amendment provisions relied upon are Amendment XIV Section 1 and the Statues relied upon are Title 42 U.S.C. §1981, 1983, 1985(2) and Title 28 U.S.C. §1331, 1343(3) and (4), 1340, and 2201

(g) A Concise Statement of Case: The case concerns the use of 42 U.S.C. §1981, 1983(2), 1985(2)(3) and 1986 to seek remedy by Petitioner for serious denial of his constitutional rights to due process under the XIV Amendment and for remedy from the attempts to cause his death by Respondent, Marsha Kameron Finnan, because of the race of his mother and the other respondents' acts denying the Petitioner his constitutional rights and supporting the racist criminal acts of Marsha Kameron Finnan.

This federal action was commenced before final judgment in an underlying State action. This federal action in part sought relief from denial of due process both before and after final State judgment. While this federal action was pending, relief was sought and denied in the NY Supreme Court and Appellate Division. This federal action also sought civil redress from the civil rights violations and the criminal acts of the respondents, Marsha Kameron Finnan, Ara Asadourian, Darla Breckenridge, Essex County and Vito Caruso. Criminal complaints for acts of respondents, Marsha Kameron Finnan and Kevin K. Ryan against the Petitioner were filed with the Attorney General of NY, who is also acting as the attorney for respondent Ryan in this action before this court.

(ii) The jurisdiction of Court of Appeals for Second Circuit was based on 28 U.S.C. §1291

(h) Rule 10 Basis for Writ:

Facts: Background facts: Marsha Kameron Finnan has admitted that I was a candidate for a heart transplant. I was defribrillated five times in 2008. I've been disabled with both hands with painful nerve condition and difficulty with balance in walking since 1992, with both rotator cuffs dysfunctional, a stroke and a cancer operation. I'm a Senior citizen on Social Security for three years. Judge Ryan wanted to take all my retirement savings to enrich his lawyer buddy, Ara Asadourian.

Fact: The one following act of many by Judge Kevin K. Ryan is by itself such an egregious denial of due process that ***departs so far from accepted and usual practice as to call for an exercise of the Court's supervisory power.***

Fact: **Judge Ryan moved up a two week later scheduled court action to later in the same day's morning while I was in intensive cardiac care and the notice to me was a call by the judge's staff to the hospital. FACT:** The doctor /hospital does not accept calls to a patient in cardiac intensive care. And why, after receiving the hospital reports, did Judge Ryan did not rehear the matter while I could be present? Fraud was presented at said hearing by Marsha Kameron Finnan and Ara Asadourian. (Appendix: items 5,6 and 7, p.28-31)

Fact: The NY State's Supreme and Appellate courts acceptance of such conduct described in the above fact conflicts with multiple relevant decisions of this Court.

Fact: This Court has responsibility under "Code of Conduct for US Judges,". Specifically, **Canon 1 A Judge Should Uphold The Integrity And Independence Of The Judiciary** ...to ***"maintain and enforce high standards of conduct"***

.....Fact: Darla Breckenridge was certified (see Appendix) to not have any license by the NY Office of Professions and none that provided her with the privileges of a licensed NY Psychologist. (Appendix item 4, p.27-28)

Fact: Marsha Kameron Finnan and Ara Asadourian knowingly and criminally submitted false documents to the courts and government offices and profited financially. *(in amounts of $1 million $100,000+, $447,000 fee)* (Appendix items 5, 6 and 7, p.28-31)

Fact: Marsha Kameron Finnan and Darla Breckenridge attempted to blind Terence Finnan and cause his death.

ARGUMENT

Judge Kevin K. Ryan must expect this Court to throw the law, the Constitution, its honor and its self-respect aside to protect his ego. This federal action did not seek any monetary damages from Judge Ryan, but just a declaratory judgment. Judge Ryan ran a Kangaroo Court aided by Ara Asadourian, Marsha Finnan, Darla Breckenridge, and Ann Kennedy (deceased in an auto accident while fleeing from a criminal action at my house and removed from this action by Court of Appeals).

My plea and hope is that this Court follow Moses' command to the judges he appointed, *"Show no partiality in your decisions; judge everyone on the same basis, no matter who he is," Deuteronomy 1:17* That was the Law under Moses and is the Law under the 14^{h} Amendment.

That remedy is available for me regardless of remedies provided under State law under §1983, is supported in *Zinermon v. Burch U.S.. 113, 125 (1990) (quoting Daniels v Williams, 474 U.S. 327 (1986)).* A Plaintiff need not make a showing of irreparable injury to get declaratory relief *Steffel v. Thompson, 415 U.S. 452, 466-67 (1974)*

In regard to Rooker-Feldman Doctrine: 1. **the trial court falsely states that a verdict was issued when no appealable verdict or Judgement was issued; 2. falsely concluded there was a Judgement in *Finnan 1*, when in fact there was no appealable judgment;** 3.. no appealable judgment was issued. And 4. the District Court **falsely states that *Finnan 1* was completed on March 7,2008 when no final order or appealable decision was filed in 2008 and later.**

In regard to Anti-injunction Act: No monetary damaged were asked against the Judicial defendants in the complaint and none are asked under appeal.

In regard Res Judicata: the claims against the Breckenridge in the complaint regarding

Breckenridge's acts in *Finnan I* could neither be raised or judged in *Finnan I I,* because they occurred after *Finnan II* ended. In addition, Judge Ryan denied Breckenridge's claims for professional privilege in *Finnan II*. Claims against Breckenridge occurred after *Finnan II* had ended and Breckenridge still made claims of professional privilege when she no such license.

In regard §1981, 1982 ,&1986: The District Court incorrectly claimed that the only mention of race in complaint is Ms. Finnan "criminally act(ed) based on race of my mother," when said claim in D on p. 4 of the Complaint. This was affirmed in my response to the motion to dismiss affirmation and satisfied Rule 56(e)(2)to show a genuine issue for trial and the court should allow me to amend my complaint, as the court claims this ordinary procedure.

In regard to §1983: Is the District court claiming that such a Kangaroo court is the norm? Both the acts of Mr. Asadourian and Ms. Finnan were done to deliberately cause the court to act against my civil rights. In particular, Mr. Asadourian's claim that my right to cross examine witnesses and present

testimony must be limited because of my tremendous advantage as pro se denied me due process.

In regard consequence of Plaintiff's Inadequate complaint: the District Court ordinarily grants leave to amend.

Conclusion

My rights to due process were denied. My rights to protection and legal process under *42 U.S.C.§ 1981, 1983, 1985(2), and 1986* were denied.

For every right there is a remedy. Justice Marshall wrote, *"The Government of the United States has been emphatically termed a government of laws, and not of men. It will certainly cease to deserve this high appellation if the laws furnish no remedy for the violation of a vested legal right." Marbury v. Madison, 5 U.S. (1 Cranch) 137 (1803)*

The harm to me is great and the harm to the judges with a declarative judgment only slight to their egos.

Wherefore, Is this Court a final rubber stamp for judicial corruption and connected crimes? I ask for a government of laws, not corrupt local despots. I ask for remedy my complaint by issuing a declaratory judgment that Judge Ryan's court's acts were not due process. I ask that the trial of the other defendants be remanded to the District Court for trial.

Respectfully submitted, Terence Finnan

****

- APPENDIX -

1. **The 12/17/2009 Order of US Court of Appeals for 2nd Circuit:** in No. 08-5977; entered 12/17/2010; in action: **Terence Finnan, *Plaintiff-Appellant*, -v- Kevin K. Ryan, Marsha Kameron Finnan, Ara Asadourian, Essex County, Darla Breckenridge, J. Does, Vito Caruso, *Defendants-Appellees*, Ann Kennedy, *Defendant*** Appeal from a November 7, 2008 order of the US District Court for the Northern District of New York (Gary L. Sharpe, Judge). UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the judgment of the District Court be AFFIRMED. Plaintiff-appellant Terrence Finnan ("plaintiff"), pro se, appeals from the District Court's order dismissing his complaint alleging claims under 42 U.S.C. 3 1981, 1983, 1985(2) & (3), and 1986, in a civil rights action arising out of a series of judicial

proceedings to which plaintiff was a party. The District Court ordered that (1) plaintiffs claims against defendant Darla Breckenridge be dismissed under Rule 56 of the Federal Rules of Civil Procedure pursuant to the doctrine of res judicata, (2) plaintiffs claims against Justice Kevin K. Ryan ("Ryan") and Judge Vito Caruso ("Caruso") be dismissed under Rule 12(b)(1) of the Federal Rules of Civil Procedure pursuant to the Rooker-Feldman doctrine, and (3) plaintiffs remaining claims against defendants Ann Kennedy, Marsha Kameron Finnan, Ara Asadourian, and Essex County be dismissed under Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim upon which relief can be granted. All of the defendants except for Ann Kennedy are appellees in the present action. We assume the parties' familiarity with the remaining facts, procedural history, and issues on appeal.

We review de novo the District Court's decision dismissing a complaint pursuant to Rule 12(b)(1), see *Triestman v. Fed. Bureau of Prisons, 470 F.3d 471, 474 (2d Cir. 2006)*, and Rule 12(b)(6), see *Chambers v. Time Warner, Inc., 282 F.3d 147, 152 (2d Cit. 2002)*. *"To survive dismissal, [a] plaintiff must provide the grounds upon which his claim rests through factual allegations sufficient 'to raise a right to relief above the speculative level." ATSI Comms., Inc. v. Shaar Fund, Ltd., 493 F.3d 87, 98 (2d Cir. 2007) (quoting Bell Ati. Corp. v. Twombly, 550 U.S. 544, 555 (2007))*. When a plaintiff proceeds pro se, as here, we are "obliged to construe his pleadings liberally, particularly when they allege

civil rights violations."*McEachin v. McGuinnis, 357 F.3d 197, 200 (2d Cit. 2004).*

We also review de novo the District Court's decision to grant summary judgment and, in the course of that review, we resolve ambiguities and draw all permissible factual inferences in favor of the non-moving party. *See, e.g., Ho/comb v. lona College, 521 F.3d 130, 137 (2d Cit. 2008); Nationwide Life Ins. Co. v. Bankers Leasing Ass'n, 182 F.3d 157, 160 (2d Cit. 1999).* We will affirm the grant of summary judgment by the District Court if the record indicates "that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law."*Pilgrim v. Luther, 571 F.3d 201, 204 (2d Cit 2009) (internal quotation marks omitted).*

Substantially for the reasons stated in the District Court's thorough order of November 7,2008 we affirm the dismissal of plaintiffs claim*s under 42 U.S.C. j 1981, 1985(2) & (3), and 1986. See Finnan v. Ryan, No. 08-cv-259, 2008 WL 4891162 (N.D.N.Y. 2008).* Plaintiff's 1983 claims were also properly dismissed against Marsha Finnan, Ara Asadourian, and Darla Breckenridge because they are not state actors and plaintiff made only conclusory allegations that these appellees acted in concert with state officials, which "does not suffice to state a 1983 claim against [a] private entity."*Ciambriello v. County of Nassau, 292 F.3d 307, 324 (2d Cit. 2002).* As to Essex County, plaintiff has not made allegations of a governmental custom or policy that would make the County liable under 1983 and we therefore conclude that the District Court properly

dismissed plaintiffs claims against the County. *See Pearl v. City of Long Beach, 296 F.3d 76, 87 (2d Cit. 2002).* The District Court dismissed plaintiffs claims against defendants-appellees Ryan and Caruso under Rule 12(b)(1) pursuant to the Rooker-Feldman doctrine after being advised mistakenly that plaintiff's divorce proceedings had ended and a final judgment had been entered. On appeal, Ryan and Caruso correct this mistake and on this basis we conclude that the Rooker-Feldman doctrine does not bar plaintiffs claims against Ryan and Caruso. *See Exxon Mobil Corp. v. Saudi Basic Indies. Corp., 544 U.S. 280, 284 (2005) (stating that the Rooker-Feldman doctrine only applies to "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced' (emphasis added)).* Plaintiff's claims against Ryan and Caruso nonetheless must be dismissed pursuant to *Younger v. Harris, 401 U.S. 37, 43-44 (1971)*, which requires federal courts to abstain from taking jurisdiction over federal constitutional claims that involve or call into question state proceedings. The requirements of Younger abstention have been met in this case because (1) state proceedings are pending; (2) New York state has an important interest in administering family law; and (3) plaintiff is able to raise his claims in those state court proceedings. Because we are "free to affirm an appealed decision on any ground which finds support in the record, *"In, Certain Underwriter, 294 F.3d 297, 302 (2d Cit.2002)*, on the basis of Younger abstention we affirm the District Court's dismissal of plaintiff's

claims against Ryan and Caruso.
We have considered plaintiffs other arguments and find them to be without merit.
CONCLUSION Accordingly, we AFFIRM the judgment of the District Court.
FOR THE COURT: Catherine O'Hagan Wolf, Clerk

---

2. **MEMORANDUM DECISION AND ORDER** of Gary L. Sharpe, U.S. District Judge, US District Court for Northern District of NY, No. 8:08-cv-259, entered 11/7/2008 **Introduction**
Terrence Finnan ("Plaintiff"), proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1981, 1983, 1985(2) & (3) and 1986, arising out of perceived improprieties by the named defendants in various state judicial proceedings to which he was a party. *(See Dkt. No. 1.)* Plaintiff seeks compensatory and punitive damages except as against defendants Justice Ryan and Judge Caruso (collectively "state judicial defendants") - and declaratory relief.
Pending are the following five motions: (1) the state judicial defendants' motion to dismiss pursuant to FED. R. Civ. P. 12(b)(1) and (b)(6) *(Dkt. No. 16.)*; (2) defendant Essex County's motion to dismiss pursuant to FED. R. Civ. P. 12(b)(6). *(Dkt. No. 8.)*; (3) defendants Finnan ("Ms. Finnan") and Kennedy's motions to dismiss for the reasons articulated by Essex County and the state judicial defendants *(Dkt. Nos. 19 & 21 .)*; and (4) defendant Breckenridge's motion to dismiss the complaint pursuant to FED. A. Civ. P. 12(b)(6) or, in the alternative, for summary judgment pursuant to

FED. A. Civ. P. 56, with a request for sanctions. *(Dkt. No. 10.)* For the reasons that follow, the motions are granted, except insofar as sanctions are sought, and the complaint dismissed in its entirety with prejudice.

II. Facts A. Prior Proceedings In October of 2003, Ms. Finnan filed for divorce from Plaintiff through her attorney, defendant Asadourian in New York State Supreme Court, Essex County. *(See Breckenridge SMF 1, Dkt, No. 10; App. A of Quackenbush Dec., Dkt. No. 16.)* On January 10, 2008, the action ("*Finnan I*"), which was presided over by Justice Ryan, proceeded to a verdict awarding Ms. Finnan a judgment of divorce and ancillary relief. (*See App. A of Quackenbush Dec., Dkt. No. 16.)*

During the course of *Finnan I*, Plaintiff apparently wrote to Judge Caruso, Chief Administrative Judge for the Fourth Judicial District, accusing Justice Ryan of various illegal and unethical conduct, and seeking remedial action. (*See Compi. at 2-3, Dkt. No. 1.)* It would seem such action was not forthcoming, resulting in Judge Caruso's inclusion in this suit. Additionally, at some point during *Finnan I*, Ms. Finnan disclosed her psychotherapist, Breckenridge, as a potential witness. *(See Breckenridge SMF 112, Dkt. No. 10.)* Plaintiff then filed suit against Ms. Finnan and Breckenridge in New York State Supreme Court, Essex County ("*Finnan II*") in or around February of 2006. (*See Brennan Ex. A, Dkt. No. 10.*) Justice Ryan again presided over this action. As the *Finnan II* complaint related to Breckenridge, it alleged that

she was involved in a conspiracy with Ms. Finnan to induce Plaintiff to commit suicide and had convinced Ms. Finnan to assault Plaintiff. Id. It was further contended that Breckenridge had misrepresented herself as a licensed professional in *Finnan I*, and had advised and assisted Ms. Finnan in presenting perjury to the court.. On August 22, 2006, Breckenridge was granted summary judgment dismissing all claims asserted against her in *Finnan II* on grounds that the claims were barred by the statute of limitations and failed to state a cause of action. *(See Brennan Ex. C, Dkt. No. 10.)*

In late 2007, after Plaintiff's motion to renew and reargue *Finnan II* was denied *(See Brennan Ex. D, Dkt. No. 10.)*, he filed an Article 78 proceeding with the NYS Third Department ("*Finnan II*") against all presently named defendants, with the exception of Essex County and Kennedy. Plaintiff again complained of Justice Ryan's allegedly improper conduct in the prior proceedings and sought, inter alia, the removal of Justice Ryan from the divorce action and any other litigation involving the Plaintiff. (*See Brennan Ex. E., Dkt. No. 10.*) Additionally, an order was sought which, in essence, would have compelled Judge Caruso to oversee the proceedings. (*See App. B of Quackenbush Dec., Dkt. No. 16.)* The Third Department dismissed *Finnan II* on April 11, 2008, due to Plaintiff's failure to properly serve Justice Ryan and Judge Caruso, or to seek relief against the other named defendants. *(See Brennan Schedule A, Dkt, No. 25.)*

B. The Current Complaint Plaintiff's current complaint, filed in March of 2008, asserts

claims under 42 U.S.C. § 1981, 1983, 1985(2) & (3) and 1986. It is essentially a shuffled list of accusations devoid of any context. Plaintiff again contends that Justice Ryan engaged in improper conduct during *Finnan I and II*, and that Judge Caruso failed to address such conduct when informed. (*See Compl. at pgs. 2-5, Dkt. No. 1.)* However, Plaintiff does not seek damages against the state judicial defendants. Rather he seeks a declaration that they "failed to follow the laws and the Constitution and allowed the courts under their control to degenerate to Kangaroo Courts." Plaintiff also seeks to have this court declare that Justice Ryan "lacks ethics and is unfit to serve as a judge,' that the trial in "*Finnan I* "was a farce and any verdict should be overturned," and that Justice Ryan "must recuse himself in all actions involving Terence Finnan."

As against the remaining defendants, Plaintiff generally alleges that they perjured themselves, or suborned perjury, in . Plaintiff further asserts that Asadourian and Ms. Finnan committed various state crimes against him. Asadourian is also accused of violating assorted disciplinary rules. Finally, it is claimed that Breckenridge "falsely claimed the privileges of a licensed professional in NY, when she had no such license;" failed to testify truthfully and engaged in negligent conduct in *Finnan I;* deprived Plaintiff "of his right to full and complete discovery" in *Finnan II;* and that she "deprived [Plaintiff] of his right to name her as a party" in *Finnan II.* Plaintiff seeks compensatory and punitive damages, as well as declaratory relief, against these defendants.

Presently,the court addresses the various defendants' motions seeking dismissal of Plaintiff's claims. **III. Legal Standards**

The standards for judgment pursuant to Federal Rules of Civil Procedure 12(b)(1), 12(b)(6) and 56 are well-established, and will not be repeated here. For a full discussion of the standards, the court refers the parties to its previous opinions in *Dixon v. Albany County Bd. of Elections, No. 1:08-CV-502, 2008 WI. 4238708, at (N.D.N.Y. Sept. 8, 2008) (Rule 12(b)(6)); Bain v. Town of Argyle, 499 F. Supp. 2d 192, 194-95 (N.D.N.Y. 2007) (Rule 56); and Hunt v. United States, No. 1 :07-C V-01 12, 2007 WL 2406912, at *1 (N.D.N.Y. Aug. 21, 2007) (Rule 12(b)(1)).*

IV. Discussion A. Jurisdiction - Rule 12(b)(1)

The state judicial defendants initially contend that Plaintiff's claims must be dismissed pursuant to three legal authorities: 1) the Rooker-Feldman Doctrine; 2) Younger abstention; and 3) the federal Anti-Injunction Act, 28 U.S.C. § 2283. The court addresses each of these in turn.

1. Rooker-Feldman Doctrine The Rooker-Feldman doctrine derives from the principle that "lower courts lack jurisdiction to engage in appellate review of state-court determinations." *Pennzoil Co. v. Texaco, Inc., 481 U.S. 1, 21(1987) (Brennan, J., concurring). It essentially bars "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district Court review and rejection of those judgments." Exxon Mobil Corp. v. Saudi Basic Iridus. Corp., 544*

U.S. 280, 284 (2005).

Within this Circuit, the Rooker-Feldman Doctrine bars a plaintiff's claims if four conditions are satisfied. First, the plaintiff in the federal action must have lost in state court. Second, the plaintiff must complain of injuries caused by the state-court judgment. Third, the plaintiff must invite district court review and rejection of that judgment. Fourth, the plaintiff must have commenced the district court proceedings after the state court judgment was rendered. See *Hoblock v. Albany County Bd. of Elections 422 F.3d 77, 8485 (2d Cir. 2005).*

Here, the first Rooker-Feldman condition is established because a verdict was issued in *Finnan I* on January 10, 2008, awarding Ms. Finnan a divorce against the Plaintiff. As to the second condition of Rooker, Plaintiff ostensibly challenges the alleged misconduct of Justice Ryan during *Finnan I and II* and Judge Caruso's failure to supervise such proceedings. Thus, it could technically be said that Plaintiff is complaining of injuries inflicted during *Finnan I*, not as a result of the judgment. However, in light of the declaratory relief sought from these defendants, it is readily apparent that the core injury Plaintiff complains of as to them is the actual entry of judgment in *Finnan I. See Eciem v. Spitzer, No. 05-GV-3504 (RJD), 2005 WL 1971024, at (E.D.N.Y. Aug. 15, 2005) (rejecting attempt to bypass Rooker-Feldman by presenting claim as one for constitutional injury during state court proceedings, not as a result of them), atf'd, 204 Fed. Appx. 95 (2d Cir. Nov. 7, 2006). See also Chestnut v. Gabler, No. 06-CV-534E(F), 2007 WL 529556,*

(W.D.N.Y. Feb. 13, 2007); Bernstein v. New York, No.06 Civ. 5681 (SAS), 2007 WL438169, at (s.D.N.y. Feb. 9,2007).

Thus, the second Rooker condition is also established. As for the third condition, Plaintiff expressly requests that this court overturn *Finnan I.* Finally, the fourth condition of Rooker-Feldman is satisfied because this action was tiled on March 7, 2008, after the completion of *Finnan I.*. Accordingly, as Plaintiff's action against the state judicial defendants improperly seeks to have this court exert appellate jurisdiction over state court proceedings, the claims against them are dismissed.

Though Rooker-Feldman divests this Court of jurisdiction over Plaintiff's claims against the state judicial defendants, it is less apparent whether it also bars the claims against the remaining defendants. Again, Plaintiff asserts that these defendants, among other things, perjured themselves in the prior proceedings and suborned perjury. Some courts within this Circuit have held that such allegations assert Claims for fraud in the procurement of a judgment, which do not come within the second element of the Rooker-Feldman doctrine. *See Marshall v. Grant, 521 F. Supp. 2d 240, 244-45 (E.D.N.Y. 2007); MacPherson v. State St. Bank & Trust Co., 452 F. Supp. 2d 133, 140 (E,DN.Y. 2006); Goddard v. Citibank, NA, 2006 WL 842925, at (E.D.N.Y. Mar. 27, 2006). See also Sturgis v. Hayes, No. 07-2365, 2008 WL 2404755, at (6th Cir. June 11, 2008).* The court also notes that Rooker deference to the judgment in *Finnan I* would not bar Plaintiff's claims that Asadourian and

Ms. Finnan committed state law violations against him, or that Breckenridge engaged in misconduct in *Finnan II*. Additionally, Plaintiff seeks monetary damages and declarative judgments against the remaining defendants which, for the most part, do not assail the underlying state court judgments. *(See Compi. pgs. 7-8, Dkt. No.1.) Accordingly, the court declines to order dismissal against these defendants solely in reliance on Rocker-Feldman.*

2. Younger Abstention The court also finds that it is inappropriate to dismiss the remainder of the case pursuant to *Younger v. Harris, 401 U.S. 37, 43-44 (1971). "Younger generally prohibits courts from 'taking jurisdiction over federal constitutional claims that involve or call into question ongoing state proceedings' so as to avoid unnecessary friction." See Spargo v. N.Y. State Comm'n on Judicial Conduct, 351 F.3d 65, 75 (2d Cir. 2003) (quoting Diamond "D" Constr. Corp. v. McGowan, 282 F.3d 191, 198 (2d Cir. 2002)).* However, the state proceeding for which such deference is urged here, *Finnan II*, has been dismissed on procedural grounds by the Third Department. *(See Brennan.Schedule A, Dkt. No. 25.)* Thus, Younger abstention in deference to that action is inappropriate. *See Pathways v. Dunne, 329 F.3d 108, 114 (2d Cir. 2003) (finding Younger inapplicable where pending state action concludes during course of federal action).*

3. Anti-Injunction Act The federal Anti-Injunction Act provides that '[a] court of the United States may not grant an injunction to stay proceedings in a State Court except as expressly

authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments." 22 U.S.C. § 2283. "Proceedings in a State Court" is an extremely comprehensive phrase under the Act, which essentially encompasses any attempt to enjoin action by a state court or the enforcement of its decisions. *See Dunne, 329 F.3d at 113.* Thus, invocation of the Anti-Injunction Act here is effective to the extent Plaintiff is generally seeking to enjoin the enforcement of the judgment in *Finnan I*, as no exception to the Act's applicability is apparent.

Nevertheless, the Act's reach goes no further than the Rocker Feldman doctrine in barring Plaintiff's claims. It does nothing to prevent Plaintiff's claim for monetary damages against the non-judicial defendants for alleged constitutional violations in the prior proceedings. Nor does it prohibit declarations which would not compromise the integrity of the state judgments. *See 17A CHARLES ALAN WRIGHT, ARTHUR A. MILLER, EDWARD H. COOPER & VIKRAM DAVID AMAR, FEDERAL PRACTICE AND PROCEDURE § 4222 (3d ed. 1 998).* Accordingly, It is necessary to move beyond the jurisdictional arguments raised by the state judicial defendants to the substance of the remaining defendant's motions.

B. Res Judicata - Rule 56 The court next addresses Breckenridge's contention that the claims asserted against her herein are res judicata in light of the decision in *Finnan II*, and must therefore be dismissed. Federal courts "must give to a state-court judgment the same preclusive effect as would

be given to that judgment under the law of the State in which the judgment was rendered. *"Migra v. Warran City School Dist. Bd. of Educ., 465 U.S. 75, 81 (1984). Under New York's transactional approach to res judicata "once a claim is brought to a final conclusion, all other claims arising out of the same transaction or series of transactions are barred, even if based upon different theories or if seeking a different remedy." O'Brien v. City of Syracuse, 54 NY2d 353, 357 (1981).* Res judicata is properly applied where three elements are met: "(1) the previous action involved an adjudication on the merits; (2) the previous action involved the [parties] or those in privity with them; [and] (3) the claims asserted in the subsequent action were, or could have been, raised in the prior action.*"Monahan v. New York City Dept. of Corr., 214 F.3d 275, 285 (2d Cir. 2000).*

Here the first two elements are clearly satisfied. First, the court in *Finnan II* granted Breckenridge summary judgment, dismissing the claims against her on the merits. Second, Plaintiff and Breckenridge were both parties to *Finnan II.*

Turning to the third element, Plaintiff presently asserts that Breckenridge "falsely claimed the privileges of a licensed professional" in *Finnan* I, refused to testify truthfully and was negligent in *Finnan I,* deprived Plaintiff "of his right to name her as a party" in *Finnan II* and improperly "demanded immunity from discovery" in that action. However, Plaintiff's claims relating to Breckenridge's alleged misconduct in *Finnan I* were, or should have been, raised in *Finnan II,* and were rejected on the merits

by Justice Ryan in granting Breckenridge summary judgment. *(See Brennan Ex. C, Dkt. No. 10.)* Similarly, contentions that Breckenridge committed perjury and fraudulently denied Plaintiff discovery in *Finnan II* should have been raised in that action by motion to vacate the judgment, instead of through this proceeding. See *Marshall, 531 F. Supp. 2d at 246; N.Y. C.P.L.R. 501 5(a)(3) (McKinney 2008).* As such, Plaintiff's current claims against Breckenridge are nonactionable under the doctrine of res judicata.

C. Sufficiency of Plaintiff's Claims - Rule 12(b)(6) Finally, as the complaint relates to defendants Kennedy, Asadourian, Essex County and Ms. Finnan, the court finds that it tails to state claims upon which relief can be granted for the reasons explained below.

1. Sections 1981, 1985, & 1986 "A plaintiff states a viable cause of action under Section 1981 ... only by alleging a deprivation of his rights on account of his race, ancestry, or ethnic characteristics."*Zemsky v. City of New York, 821 F.2d 148, 150 (2d Cir. 1987); see also Mione v. McGrath, 435 F. Supp. 2d 266, 271 (S.D.N.Y. 2006). Similarly, "[a] plaintiff states a viable cause of action under Section 1985 or 1986 only by alleging a deprivation of his rights on account of his membership in a particular class of individuals." Zemsky, 821 F.2d at 1 50; see also Mione, 435 F. Supp. 2d at 271. 'A class must possess the characteristics of a discreet and insular minority, such as race or gender." Konigsbelg v. Lefevre, 267 F. Supp. 2d 255, 262 (N.D.N.Y. 2003).*

Here, the complaint fails to allege that Plaintiff was deprived of protected rights as a result of any racial, ethnic, or class based animus on the part of the defendants. Nor does Finnan's responsive memorandum give any indication that an amended pleading would be able to remedy these defects. Rather, in response to defendants' motions, Plaintiff contends only that he has not been treated appropriately as an "ordinary white citizen" and asserts his belief that the statutes he is suing under require no showing of discrimination. (*See Pl. Resp. Mem., Dkt. No. 23.)* Accordingly, given the insufficiency of Plaintiff's complaint and his apparent inability to remedy its defects, his claims for violations of 42 U.S.C. § 1985 and 1986 are dismissed.

2. Section 1983 In order to state a claim under § 1983, a plaintiff must allege "(1) that the challenged conduct was attributable at least in part to a person acting under color of the state law, and (2) that such conduct deprived plaintiff of a right, privilege or immunity secured by the Constitution or laws of the United States."*Eagleston v. Guido, 41 F.3d 865, 876 (2d Cir. 1994). Here, the court will initially address the second prong, as the Supreme Court has indicated that "[t]he first step in any [Section 1983 claim is to identify the specific constitutional [or federal statutory right allegedly infringed." Aibright v. Oliver, 510 U.S. 266 (1994), This is because "Section 1983 itself creates no substantive rights; it provides only a procedure for redress for the deprivation of rights established elsewhere." Sykes v. James, 13 F.3d 515, 51.9 (2d Cir. 1993).*

In the present instance, the complaint fails to clearly identity any federal right infringed upon by the defendants which would give rise to Plaintiff's § 1983 action, nor is any such right implicated in the conduct of which Plaintiff complains. Plaintiff generally asserts at various points in his complaint that his rights to equal protection under law have been violated. However, an equal protection claim requires a showing that the Plaintiff was treated differently than other similarly situated individuals, and that such treatment was, at the very least, motivated by an intent to injure the Plaintiff. See *Hawkins v. County of Oneida, 497 F. Supp. 2d 362, 376 (N.D.N.Y. 2007) (citing Zahra v. Town of Southold, 48 F.3d 674, 683 (2d Cir. 1995))*. Here, Plaintiff has failed to identify any similarly situated person who was treated more favorably than he was. In fact, the complaint and Plaintiff's responsive papers are devoid of any such allegations. Thus, to the extent Plaintiff is asserting an equal protection claim, it is insufficient as a matter of law.

Additionally, to the extent Plaintiff is alleging that his rights to procedural due process were violated through various defendants' forgery, perjury or subornation of perjury, such assertions do not give rise to federal civil claims. *See Luckett v. Bure, 290 F.3d 493, 497 (2d Cir. 2002)*. Furthermore, allegations that Asadourian violated assorted disciplinary rules in his representation of Ms. Finnan do not rise to the level of a civil rights violation. *See Eckert v. Schroeder, Joseph & Associates, 364 F. Supp. 2d 326, 328 (W,D.N,Y. 2005)*. Finally, Plaintiff's claim that Asadourian and

Ms. Finnan violated various state laws in their conduct towards him is not cognizable under § 1983. *See Young v. County of Fulton, 160 F.3d 899, 902 (2d Cir. 1998) (violation of state law does not give rise to a § 1983 claim); P0/mow v. Glennon, 757 F.2d 496, 501 (2d Cir. 1 965) ("Clearly, a violation of state law is not cognizable under § 1983.").* Thus, it is apparent that the factual predicates for Plaintiff's § 1983 claims tail to fall within the ambit of the statute, and such claims must be dismissed accordingly.

D. Consequence of Plaintiff's Inadequate Complaint Upon the dismissal of an inadequate complaint, it is often appropriate to grant a pro se litigant leave to file an amended complaint, in lieu of dismissing his entire action. *See, e.g., Cooke v. Stern, Nos. 9:07-C V-i 292, 9:08-CV-0074, 2008 WL 238515 (N.D.N.Y. Jan. 28, 2008).* However, such a course is not called for in the present instance. As the procedural history in this matter and the above discussion make clear, Plaintiff's claims lack "an arguable basis in law or fact" and are therefore frivolous. *Neitzke v. Williams, 490 U.S. 319, 325 (1989).* Indeed, Plaintiff's responsive memoranda provide no indication that he is willing or able to rectify his complaint's detects through mere repleading. Rather, it would seem that Plaintiff is intent on incessantly hauling those who were involved in his divorce action into court for the sole purpose of harassing them, not to assuage any cognizable harm. Thus, as "it appears that granting leave to amend is unlikely to be productive," the court dismisses Plaintiff's complaint with prejudice.

Lucente v. IBM Corp., 310 F.3d 243, 258 (2d Cir. 2002).

E. Sanctions Lastly, the court addresses Breckenridge's request for sanctions in light of Plaintiff's persistent use of the legal system to harass her. FED. A. Civ. P. 11 may be used to sanction a pro se litigant for engaging in vexatious litigation. However, in the present instance, the motion for such sanctions has not been properly presented to the court. Rule 11 (c)(2) requires that a motion for sanctions be made separately from other motions and that it describe the specific conduct alleged to be sanctionable. Further, the motion must first be served upon the offending party, who is then given 21 days to remedy the sanctionable conduct before the motion may be made to the court. Here, Breckenridge has simply added her request for sanctions to her dispositive motion, and does not appear to have first given the Plaintiff an opportunity to correct or withdraw his frivolous arguments. Thus the motion for a remedy in the nature of sanctions is denied. Nevertheless, the court notes that if Plaintiff files another suit against Breckenridge arising out of the allegations rejected by this and previous courts, a properly made motion for sanctions would likely be granted and dismissal will again ensue.

WHEREFORE, for the foregoing reasons, it is hereby ORDERED that Plaintiff's claims against Justice Ryan and Judge Caruso are dismissed under FED.R. Civ. P. 12(b)(1) pursuant to the Rooker-Feldman Doctrine; and it is further ORDERED that Plaintiff's claims against Breckenridge are

dismissed under FED. R. Civ. P. 56 pursuant to the doctrine of res judicata; and it is further ORDERED that Plaintiff's remaining claims are dismissed under FED. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted; and it is further ORDERED that Breckenridge's request for sanctions is denied; and it is further ORDERED that the Clerk of the Court enter judgment against Plaintiff and close this case; and it is further ORDERED that the Clerk of the Court provide a copy of this Order to the parties by regular mail. IT IS SO ORDERED.

Albany, New York, Dated: November 6, 2008
—Gary L. Sharpe, US District Judge

---

3. Entered on 02/3/2010 **Order of US Court of Appeals for the Second Circuit: in 08-5977-cv:** in action: **Terence Finnan, *Plaintiff-Appellant*, -v- Kevin K. Ryan, Marsha Kameron Finnan, Ara Asadourian, Essex County, Darla Breckenridge, J. Does, Vito Caruso, *Defendants-Appellees*, Ann Kennedy, *Defendant***

Appellant Terrence Finnan having filed a petition for rehearing and the panel that determined the appeal having considered the request, IT IS HEREBY ORDERED that the Petition is denied FOR THE COURT, Catherine O'Hagan Wolfe, Clerk of Court

---

4. In re: **Breckenridge's fraud** on this court, fraud on the Court of Appeals for the Second Circuit, and fraud on the District Court by Darla Breckenridge

who claims res judicata for her criminally false claim to be entitled to the privileges of a licensed NY psychologist when she had no such license as seen in following affidavit from NY Office of Professions

STATE OF NEW YORK) COUNTY OF ALBANY) SS:
In accordance with the Civil Practice Law and Rules Article 45, rule 4521 and 4540. I, Connie F. Mitchell, Clerk 11 in the Division of Professional Licensing Services of the New York State Education Department, have caused this certificate to be prepared. I further state that I have legal custody of the official records of the Division of Professional Licensing Services and I attest to a diligent search of the records of my office has been made and **there has been found NO record of entry in the name of DARLA K BRECKENRIDGE as having received a license to practice PSYCHOLGY from the New York State Education Department. Witness my hand and the seal of the cw York State Education Department this 6 August, 2005.**
Connie 1. Mitchell,. Clerk II Professional Licensing Services

---

5. Copy of criminal complaint shown in item 7 of Appendix below shows the fraud of of Marsha Kameron Finnan and Ara Asadourian. This is the same fraud used by Respondent Marsha Kameron Finnan in Judge Kevin K. Ryan's Kangaroo Court while I was in cardiac intensive care. Note the million dollars of phoney inheritance and

Asadourian's $447,484 fee (which is seen in his attached affidavit) and the fraud in the FAFSA application worth at least $100,000 to Marsha Kameron Finnan. This was referred by Justice Department back to NY.

---

6. Letter: To Attorney General, Eric H. Holder, Jr.
US Department of Justice, 950 Pennsylvania Avenue.
Washington, D.C. 20530-0001

Andrew T. Baxter, US Attorney for Northern District of NY
P.O. Box 7198, 100 South Clinton Street
Syracuse, NY 13261-7198
FBI, Albany Office, 200 McCarty Ave.,Albany, NY 12209

Re: Fraud, Greed, USC Title §1001, Recovery likely, Prosecution easy

Dear Sirs::

I've enclosed a sworn criminal complaint against Marsha Finnan, aka Marsha Kameron, who has fraudulently misused FAFSA to defraud various scholarship and loan programs. This is a very easy prosecution because everything is in sworn affidavits filed with the Essex County Clerk. Other charges are likely when the victimized loan and scholarship programs are identified.

She swears over a million dollars in separate property and then greedily defrauds others to get their money. If such conduct is tolerated, then all citizens should know, so they can equally keep their money.. It is likely that money could be recovered.

Sincerely yours,
/ss/ Terence Finnan

Note: Original affidavits to FBI Albany and US Attorney

7. The Federal Criminal Complaint against Marsha Finnan, aka Marsha Kameron

STATE OF NEW YORK COUNTY OF ESSEX ss:

Terence Finnan makes this **Federal Criminal Complaint** against **Marsha Finnan, aka Marsha Kameron**, whose home is at 7 Liberty Hill, Lake Placid NY

Marsha Finnan for four separate years submitted FAFSA Student Aid Applications, which knowingly falsified her daughter's Parents' Assets, falsely claimed to be separated from her husband, to conceal and cover up the material fact that said Parents' Assets were approximately one million dollars or more. Marsha Finnan knew the value of said assets, because Affidavits of Net Worth (**Parents' Assets**) were filed with the Essex County Clerk in 2003 prior to Marsha Finnan first submitting said FAFSA applications, Marsha Finnan in a filed affidavit with the Essex County Clerk swore that she had inherited over a million dollars and she kept that as her separate assets for all four years during which she submitted the false, fictitious, and fraudulent statements on the FAFSA applications.

2. Terence Finnan has **attached a copy of Marsha Finnan's false filing dated 4/6/2006** in which Marsha knowingly, fictitiously, and fraudulently submitted false data about the

a. Home Current Market Value as $48,260, when she had obtained Realtor assessments for more than $200,000+

b.. Home Purchase Price as $30,000, when that didn't even cover the purchase price of the vacant land and excluded the cost of the construction of construction materials for the new home constructed,

c. Business Current Market Value claimed is pure

fiction as Marsha in her sworn filings with the Essex County Clerk claimed no such business existed,

d. the sum of assets listed on FAFSA comes no where near one million dollars disclosed in Net Worth Affidavits filed with Essex County Clerk,

and e. she didn't disclose her one million dollar separate property inheritances claimed in Marsha Finnan's 2008 filed affidavit and/or the $800,000 in separate property sworn to in her attorney's affidavit. (the page with his signature and that $800,000 claim is attached).

.4. Marsha Finnan has violated in four separate submissions and consecutive years, **USC Title §1001** by (a) in a matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully (1) falsified, concealed, or covered up a material fact;

(2) made a materially false, fictitious, or fraudulent statement(s) or representation(s); and

(3) made and used false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry.

5. These fraudulent material facts were used to defraud various student loan and scholarship programs within or without government and/or private organizations.

/ss/ Terence Finnan

Terence Finnan came before on November 9th 2009 and swore the contents of this affidavit were true under the penalties of perjury under the law of the United States of America /ss/